

## HOUSE BILL NO. 127

INTRODUCED BY S. MENDENHALL

BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE DEFINITION OF "SERIOUSLY DEVELOPMENTALLY DISABLED" FOR THE PURPOSES OF CIVIL COMMITMENT; REMOVING THE CRITERION OF NEAR TOTAL CARE; AMENDING SECTION 53-20-102, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 53-20-102, MCA, is amended to read:

**"53-20-102. Definitions.** As used in this part, the following definitions apply:

(1) "Board" or "mental disabilities board of visitors" means the mental disabilities board of visitors created by 2-15-211.

(2) "Community-based facilities" or "community-based services" means those facilities and services that are available for the evaluation, treatment, and habilitation of persons with developmental disabilities in a community setting.

(3) "Court" means a district court of the state of Montana.

(4) "Developmental disabilities professional" means a licensed psychologist, a licensed psychiatrist, or a person with a master's degree in psychology, who:

(a) has training and experience in psychometric testing and evaluation;

(b) has experience in the field of developmental disabilities; and

(c) is certified, as provided in 53-20-106, by the department of public health and human services.

(5) "Developmental disability" means a disability that is attributable to mental retardation, cerebral palsy, epilepsy, autism, or any other neurologically disabling condition closely related to mental retardation and that requires treatment similar to that required by mentally retarded individuals. A developmental disability is a disability that originated before the individual attained age 18, that has continued or can be expected to continue indefinitely, and that results in the person having a substantial disability.

(6) "Habilitation" means the process by which a person who has a developmental disability is assisted

1 in acquiring and maintaining those life skills that enable the person to cope more effectively with personal needs  
2 and the demands of the environment and in raising the level of the person's physical, mental, and social  
3 efficiency. Habilitation includes but is not limited to formal, structured education and treatment.

4 (7) "Individual treatment planning team" means the interdisciplinary team of persons involved in and  
5 responsible for the habilitation of a resident. The resident is a member of the team.

6 (8) "Next of kin" includes but is not limited to the spouse, parents, adult children, and adult brothers and  
7 sisters of a person.

8 (9) "Qualified mental retardation professional" means a professional program staff person for the  
9 residential facility who the department of public health and human services determines meets the professional  
10 requirements necessary for federal certification of the facility.

11 (10) "Resident" means a person committed to a residential facility.

12 (11) "Residential facility" or "facility" means the Montana developmental center.

13 (12) "Residential facility screening team" means a team of persons, appointed as provided in 53-20-133,  
14 that is responsible for screening a respondent to determine if the commitment of the respondent to a residential  
15 facility is appropriate.

16 (13) "Respondent" means a person alleged in a petition filed pursuant to this part to be seriously  
17 developmentally disabled and in need of developmental disability services in a residential facility.

18 (14) "Responsible person" means a person willing and able to assume responsibility for a person who  
19 is seriously developmentally disabled or alleged to be seriously developmentally disabled.

20 (15) "Seriously developmentally disabled" means a person who:

21 (a) has a developmental disability;

22 (b) is impaired in cognitive functioning; and

23 (c) ~~has behaviors that pose an imminent risk of serious harm to self or others or self-help deficits so~~  
24 ~~severe as to require total care or near total care and who, because of those behaviors or deficits, cannot be~~  
25 safely and effectively habilitated in community-based services because of:

26 (i) behaviors that pose an imminent risk of serious harm to self or others; or

27 (ii) self-help deficits so severe as to require total care."

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29 **NEW SECTION. Section 2. Effective date.** [This act] is effective January 1, 2006.

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